

Staff recognized that the rule does not address either charges for customer lists or the treatment of nonpublished and nonlisted numbers. However, Staff stated that it prefers that such issues not be specified in the rule to allow the issues to be revisited if the need arises.

3. Conclusion

The Commission concludes that the final draft of this section attached to the surrebuttal testimony of Staff should be adopted. The LEC notice to IXCs was changed to three months to avoid the conflict between this notice and the one contained in Section XXX.110. The other notice schedules are also reasonable.

The Commission does not believe that a broad prohibition against the dissemination of customer information is appropriate at this time. As noted by Staff, the limited availability of the customer information required by Section XXX.170 is needed to allow intraMSA presubscription to be implemented in an equitable fashion. In the Commission's opinion, both the scope of the information and the duration of its availability are carefully and prudently limited in the proposed rule.

We do, however, find generally persuasive CUB's argument regarding the appropriate manner of contacting customers with non-published or non-listed numbers. Those customers have paid a premium for privacy, and it is the Commission's intention that presubscription solicitations for those customers should not include telephone contacts initiated by telecommunications carriers or their agents. We believe that this intention is adequately reflected in the rule by specifically defining the scope of the information to be included in the customer lists provided for under the rule.

For the reasons set forth by Illinois Bell, we reject AT&T's proposals regarding tariffing of customer information.

J. PTC Arrangements

Staff witness TerKeurst recommended elimination of the PTC arrangement upon implementation of intraMSA presubscription. She proposed the following:

- 1) the PTC should become the default provider of intraMSA toll service.

- 2) the LEC should provide billing and collection service for the PTC if the PTC desires.
- 3) LECs need no longer concur in PTC toll rates.
- 4) Current contractual netting arrangements and provisioning agreements should be replaced with tariffed access services.
- 5) The PTC and LECs would no longer be joint providers of intraMSA toll service.

Ms. TerKeurst recognized that the record in this proceeding may not be sufficient to permit the Commission to make a final determination as to how to replace the PTC arrangement.

Centel and IITA maintain that there are a number of issues relating to the provisioning of private line services which need to be resolved before the PTC arrangement can be eliminated. Sprint points out that LECs which are not PTCs are in fact part of the PTC arrangement, but no consideration has been given in these proceedings to what alternatives will be available to non-PTC LECs for participation in the intraMSA toll business in the absence of PTCs.

ICTC identified a number of changes needed to implement termination of the PTC system. These include elimination of the netting arrangements, mandatory concurrence in intraMSA toll tariffs, and ICTC-LEC joint provision of toll service in MSA 8, all of which are characteristics of the PTC system. In addition, ICTC witness Pence proposed that intraMSA toll service should be declared competitive in MSA 8, and after notice and a transition period, ICTC should be permitted to withdraw as a toll provider when another carrier is providing toll service.

Conclusion

No party has taken the position that the PTC arrangements should not be eliminated. The PTC system has served Illinois well, but is apparently inconsistent with intraMSA presubscription. The record establishes that there are some remaining issues to be resolved. Accordingly, we will initiate a proceeding to consider issues associated with the termination and replacement of the PTC arrangements.

The Commission, having considered the entire record, and being fully advised in the premises, is of the opinion and finds that:

- (1) the Commission has jurisdiction over the parties hereto and the subject matter hereof;
- (2) the recitals of fact set forth in the prefatory portion of this Order are supported by the record, and are hereby adopted as findings of fact;
- (3) the proposed rule, 83 Ill. Adm. Code XXX, Presubscription, as set forth in the attached Appendix A, should be submitted to the Secretary of State for publication in the Illinois Register, thereby initiating the first notice period under Section 5-40 of the Illinois Administrative Procedure Act; and
- (4) all objections, petitions or motions in this proceeding which remain unresolved should be considered resolved consistent with the ultimate conclusions contained in this Order.

IT IS THEREFORE ORDERED that the proposed 83 Ill. Adm. Code XXX, as set forth in the attached Appendix A, shall be submitted to the Secretary of State for publication in the Illinois Register, thereby initiating the first notice period required by Section 5-40 of the Illinois Administrative Procedure Act and that all other submissions necessary for compliance with the Illinois Administrative Procedure Act be made.

IT IS FURTHER ORDERED that the documents and information designated by the Hearing Examiners as confidential and proprietary are hereby afforded proprietary status and motions to that effect are hereby granted.

IT IS FURTHER ORDERED that all objections, petitions or motions in this proceeding which remain unresolved are hereby resolved consistent with the ultimate conclusions contained in this Order.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is not final and is not subject to the Administrative Review Law.

By Order of the Commission this 7th day of April, 1995.

(SIGNED) DAN MILLER
Chairman

(S E A L)

APPENDIX A

TITLE 83: PUBLIC UTILITIES CHAPTER I: ILLINOIS COMMERCE COMMISSION SUBCHAPTER f: TELEPHONE UTILITIES

PART 773 PRESUBSCRIPTION

Section

- 773.5 Applicability
- 773.10 Definitions
- 773.100 Obligation to Provide Presubscription
- 773.110 Implementation
- 773.120 IntraMSA Calls Not Subject to Presubscription
- 773.130 Waivers and Extensions
- 773.140 Customer Notification and Presubscription Changes
- 773.150 Interexchange Carrier Participation
- 773.160 Presubscription Charges and Cost Recovery
- 773.170 Information Requirements

AUTHORITY: Implementing Section 13-403 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/13-403 and 10-101].

SOURCE: Adopted at ___ Ill. Reg. _____, effective _____.

Section 773.5 Applicability

- a) This Part shall apply to any telecommunications carrier, as defined in Section 13-202 of the Public Utilities Act ("Act") [220 ILCS 5/13-202] providing local exchange telecommunications service as defined in Section 13-204 of the Act or interexchange telecommunications service as defined in Section 13-205 of the Act. In addition, this Part shall apply to any entity certificated by the Illinois Commerce Commission ("Commission") under Section 13-403 or Section 13-405 of the Act.
- b) This Part shall not apply to any telecommunications carrier that is subject to 83 Ill. Adm. Code 760, "Cellular Radio Exclusion."

Section 773.10 Definitions

"1-PIC" is a presubscription method in which a customer's presubscribed calls are carried by the interexchange carrier (IXC) of the customer's choice, without the use of access codes.

"2-PIC" is a presubscription method in which a customer's inter-market service area (MSA) calls are carried by an IXC

of the customer's choice and its intraMSA presubscribed calls are carried, at the customer's choice, by the local exchange carrier (LEC) (or a primary toll carrier (PTC)), by the IXC chosen to carry interMSA calls, or by another IXC, without the use of access codes.

"Bona fide request" is a written request submitted to a LEC by an IXC, in which the IXC requests that the LEC provide presubscription consistent with this Part to customers within an exchange(s) and states that it intends to offer intraMSA usage services utilizing presubscription to customers in the exchange(s) within six months after the bona fide request, or within one year after the effective date of this Part, whichever is later.

"Customer" means a subscriber to a LEC switched network access service, either a bundled network access line or trunk or an unbundled port.

"Customer list" means an identification of the name, billing address and listed or published telephone number of each customer. It does not include an unpublished or unlisted telephone number.

"Equal access" has the meaning given it in Appendix B of the Modification of Final Judgment entered by the United States District Court on August 24, 1982 in United States v. Western Electric, Civil Action No. 82-0192 (D.D.C. 1982), as amended by the court in its orders issued prior to the effective date of this Part.

"Equal access exchange" means an exchange in which the LEC has complied with and implemented federal equal access requirements.

"Incumbent local exchange carrier" or "incumbent LEC" means a LEC that provided facilities-based switched local exchange telecommunications services within an exchange as of December 31, 1993.

"Interexchange carrier" or "IXC" means a telecommunications carrier under the Act that provides interexchange telecommunications services as defined in Section 13-205 of the Act. A telecommunications carrier is both an IXC and a LEC if it provides both interexchange and facilities-based local exchange telecommunications services.

"Local exchange carrier" or "LEC" means a telecommunications carrier under the Act that provides facilities-based

local exchange telecommunications services. A telecommunications carrier is both an IXC and a LEC if it provides both interexchange and facilities-based local exchange telecommunications services.

"Modified 1-PIC" is a presubscription method in which a customer's interMSA calls are carried by an IXC of the customer's choice and its intraMSA presubscription calls are carried, at the customer's choice, by either the LEC (or a PTC) or by the IXC chosen to carry interMSA calls, without the use of access codes.

"New local exchange carrier" or "new LEC" means a LEC that did not provide facilities-based switched local exchange telecommunications services within a specified geographic area as of December 31, 1993.

"Presubscription" is a procedure by which a customer can predesignate one or more IXCs to access for its subscribed switched intraMSA and interMSA calls, without dialing an access code.

"Primary interexchange carrier" or "PIC" means a subscribed IXC that carries subscribed calls, without the use of access codes, for a customer following equal access or presubscription implementation.

"Primary toll carrier" or "PTC" means the carrier that was made responsible for intraMSA toll rates, intraMSA compensation, and coordination of the intraMSA toll network by the Sixteenth Interim Order, July 2, 1985, and the Twenty-Fifth Interim Order, July 23, 1986, in Commission Docket 83-0142.

Section 773.100 Obligation to Provide Presubscription

- a) Each LEC shall provide presubscription consistent with this Part upon the LEC's own initiative or upon a bona fide request, using the 2-PIC method.
- b) Each LEC providing presubscription within an exchange(s) using the 1-PIC method as of December 31, 1993 is exempted from the requirements of this Part as long as it continues to provide 1-PIC presubscription.

- c) Presubscription shall be provided consistent with this Part and in accordance with 47 CFR Section 64.1100 (October 1994 Edition) and the following Federal Communications Commission ("FCC") Orders: Investigation of Access and Divestiture Related Tariffs, CC Docket 83-1145, Phase I, Memorandum Opinion and Orders, 101 FCC 2d 911 (1985); 101 FCC 2d 935 (1985); and Mimeo No. 6714, released August 30, 1985; and Policies and Rules Concerning Changing Long Distance Carriers, CC Docket No. 91-64, Report and Order, 7 FCC Rcd 1038 (1992), Erratum, DA 92-101, released February 4, 1992. No other amendment or edition of the foregoing rules or Orders are incorporated in this Part.

Section 773.110 Implementation

- a) Each incumbent LEC shall, within 120 days after receiving a bona fide request, file intrastate tariffs to provide presubscription consistent with this Part in its equal access exchanges within six months after receiving the bona fide request or within one year after the effective date of this Part, whichever is later.
- b) For each incumbent LEC exchange that was not an equal access exchange as of the effective date of this Part, the incumbent LEC shall file intrastate tariffs to provide presubscription consistent with this Part effective at the time that equal access is implemented within the exchange.
- c) Each new LEC shall, within 120 days after receiving a bona fide request, file intrastate tariffs to provide presubscription consistent with this Part effective within six months after receiving the bona fide request or within one year after the effective date of this Part, whichever is later.
- d) Each LEC may negotiate implementation schedules that differ from the requirements in this Section, with the agreement of all IXCs that make bona fide requests within 60 days of the first bona fide request.

Section 773.120 IntraMSA Calls Not Subject to Presubscription

- a) In its intrastate presubscription tariff, each LEC shall specify which intraMSA switched calls are not subject to presubscription for each of its exchanges.
- b) For each incumbent LEC exchange, intraMSA calls shall not be subject to presubscription if they originate and terminate within the geographic area within which the LEC

provides calling through one or more of the following: flat rate service, residence untimed calling and usage measured service bands that do not exceed 15 miles from the exchange wire center, and/or flat rate or measured Extended Area Service, as defined in the LEC's tariffs.

- c) The following intraMSA calls shall not be subject to presubscription: local directory assistance (e.g., 411), local repair (e.g., 611), emergency (911), 0- operator services, and local pay-per-call (e.g., 976) calls. Calls using the 500, 700, 800, or 900 service access codes shall not be subject to this Part.
- d) For incumbent LECs, 0+ calls shall not be subject to presubscription if they originate and terminate within the geographic area described in Section 773.120(b).
- e) All intraMSA switched calls not subject to presubscription and dialed without the use of access codes shall be carried by the LEC. Those calls dialed using a 500, 700, 800, or 900 service access code shall not be subject to this Part.

Section 773.130 Waivers and Extensions

- a) A LEC may petition for a waiver of the requirement to provide presubscription consistent with Section 773.100 on the basis that the 2-PIC method is not technically feasible or that, under current conditions, the costs are expected to substantially exceed reasonably anticipated benefits. The Commission, after hearing, shall grant a waiver and shall allow the modified 1-PIC method to be used upon a showing that the 2-PIC method is not technically feasible or that its costs are expected to substantially exceed reasonably anticipated benefits.
- b) A LEC may petition for an extension of the timing requirements in Section 773.110 on the basis that presubscription cannot reasonably be provided within the given exchange(s) within the required time frame. The Commission, after hearing, shall grant an extension to a specified date upon a showing that presubscription cannot reasonably be provided within the given exchange(s) within the time frame required by Section 773.110 and that the date specified in the extension can reasonably be met.

- c) Any LEC or IXC may petition for a waiver of the requirements in Section 773.120 on the basis that the requirements regarding calls not subject to presubscription do not meet customers' calling needs and/or do not preserve or promote effective competition. The Commission, after hearing, shall grant a waiver upon a showing that the requirements regarding calls not subject to presubscription do not meet customers' calling needs and/or do not preserve or promote effective competition. In determining whether to grant the waiver, the Commission shall consider the financial impact and the technical feasibility of alternatives.

Section 773.140 Customer Notification and Presubscription
Changes

- a) For each incumbent LEC exchange that was an equal access exchange as of the effective date of this Part, and for each new LEC, the LEC shall provide written notice to its customers of the availability of presubscription, as follows:
 - 1) The notice shall be provided to existing customers at least 30 days prior to the implementation of presubscription consistent with this Part;
 - 2) The notice shall be provided to new customers who request network access service between the time the notice is distributed and the date presubscription is implemented consistent with this Part, at the time they request service;
 - 3) The notice shall describe presubscription, the customers' choices, how to select among the presubscription choices, and any related charges in a manner that does not attempt to influence customers regarding their selections.
- b) For each incumbent LEC exchange that was not an equal access exchange as of the effective date of this Part, balloting shall be required for both interMSA and intraMSA usage, as follows:
 - 1) Balloting shall be in accordance with the FCC's Memorandum Opinion and Orders in CC Docket No. 83-1145, Phase I, and balloting shall include both interMSA and intraMSA choices;
 - 2) Customers' intraMSA usage subject to presubscription shall not be allocated, and shall continue to be

provided by the incumbent LEC (or PTC) until the customer selects a different intraMSA presubscription choice.

- c) For new customers requesting network access service after presubscription consistent with this Part is implemented in an exchange, the LEC or other carrier receiving the request shall inform the customer, when service is requested, of its presubscription choices and shall provide the following information before either asking for the customer's presubscription selections and/or marketing its own interexchange services:

- 1) The customer service representative shall inform the new customer that the customer can select from a number of IXC's for presubscribed interexchange service, and shall describe the available presubscription choices in a manner that does not attempt to influence customers regarding their selections;
- 2) The representative shall offer to provide the names of IXC's serving that office in random order as well as the telephone numbers of the IXC's.

If the customer indicates its selections, the representative shall not solicit the customer further for the carrier's interexchange services.

- d) Customers shall retain their existing intraMSA dialing arrangements as of the effective date of this Part until they make presubscription selections, and may change their selections at any time, subject to charges specified in Section 773.160. Procedures for intraMSA and interMSA selection changes shall be in accordance with 47 CFR Section 64.1100 (October 1994 Edition) and the following Federal Communications Commission ("FCC") Orders: Investigation of Access and Divestiture Related Tariffs, CC Docket 83-1145, Phase I, Memorandum Opinion and Orders, 101 FCC 2d 911 (1985); 101 FCC 2d 935 (1985); and Mimeo No. 6714, released August 30, 1985; and Policies and Rules Concerning Changing Long Distance Carriers, CC Docket No. 91-64, Report and Order, 7 FCC Rcd 1038 (1992), Erratum, DA 92-101, released February 4, 1992. No other amendment or edition of the foregoing rules or Orders are incorporated in this Part.

Section 773.150 Carrier Participation

Carriers (including LECs and IXC's) may carry presubscribed intraMSA calls if they have effective intrastate tariffs to provide such services and if they have made the necessary arrangements with the LEC.

Section 773.160 Presubscription Charges and Cost Recovery

- a) Each LEC shall allow customers to change presubscription selections once at no charge within six months following implementation within an exchange of presubscription consistent with this Part, and shall allow each new customer to select presubscription arrangements at no charge at the time network access service is initiated. At other times, each LEC may impose a reasonable, tariffed charge for changes in a customer's presubscription selections.
- b) Each LEC may seek to recover reasonable separated intrastate costs limited to initial incremental expenditures related directly to the provision of presubscription that would not be required absent the provision of presubscription consistent with this Part.
- c) In determining presubscription cost recovery, each LEC shall amortize all separated intrastate presubscription costs over at least a three year period.
- d) Each LEC that provides noncompetitive services and is not an average schedule company shall use the following procedures for recovery of intrastate presubscription costs:
 - 1) A tariffed presubscription cost recovery charge shall be applied to all switched originating intraMSA intrastate minutes of use subject to presubscription and originated by the LEC's customers, whether carried by the LEC or another IXC. If the LEC is a PTC, such charges shall not apply to customers of other LECs with which the LEC has a PTC arrangement;
 - 2) The LEC shall submit the proposed presubscription cost recovery charge and full cost documentation as part of its tariff filing made to implement presubscription consistent with this Part;
 - 3) In non-equal access exchanges where both inter- and intraMSA equal access are implemented concurrently,

LECs should develop separate inter- and intraMSA cost recovery charges, consistent with FCC requirements and this Part.

- e) Each LEC that is an average schedule company shall, through its concurrence in the Illinois Small Company Exchange Carrier Association (ISCECA) intrastate switching tariffs, use the following procedures for recovery of intrastate presubscription costs:
 - 1) An addition to the local switching rates shall be applied to all switched intrastate minutes of use subject to presubscription and originated by the LEC's customers;
 - 2) ISCECA shall submit the proposed addition to its local switching rates and full cost documentation through a tariff filing made to recover intrastate presubscription costs consistent with this Part;
 - 3) The addition to the local switching rates shall apply for the amortization period only. At the end of the amortization period, ISCECA shall file the appropriate local switching tariff reflecting the removal of such addition to its local switching rates.

Section 773.170 Information Requirements

- a) Within 15 days after receiving a bona fide request, a LEC shall notify all IXCs currently purchasing Feature Group D access service ("FGD service") from the LEC in the affected exchange(s) of the bona fide request.
- b) Each LEC shall provide the following information to all IXCs purchasing FGD service or which place orders for FGD service from the LEC in each exchange where presubscription consistent with this Part is to be implemented:
 - 1) Presubscription conversion schedules, to be provided at least three months prior to the cutover date;
 - 2) Ordering procedures, terms, and conditions for the IXC to be eligible for customer presubscription to the IXC, to be provided at least three months prior to the cutover date;

- 3) Customer lists, within 15 business days of receipt of a written request from an IXC that has made a bona fide request or has otherwise established eligibility for customer presubscription, to be used by the IXC only in connection with presubscription solicitation. Customer lists shall be provided upon request for a period of six months prior to and six months after the implementation of presubscription in an exchange.
- c) Each LEC shall serve all presubscription tariff filings, waiver petitions, and extension of time petitions on all IXCs currently purchasing FGD service from the LEC in the affected exchange(s) and on all other entities that have requested such service.

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission	:	
On Its Own Motion	:	
	:	
Adoption of rules relating to	:	
intra-Market Service Area	:	94-0048
presubscription and changes in	:	
dialing arrangements related to	:	
the implementation of such	:	
presubscription.	:	

SECOND INTERIM ORDER

By the Commission:

On April 7, 1995, the Illinois Commerce Commission ("Commission") entered an order authorizing the submission to the Secretary of State of the first notice of the proposed amendments of 83 Ill. Adm. Code 773 "Presubscription". The procedural and evidentiary history of this docket is detailed in that first interim order, and in the Order in Docket 94-0096/94-0117/94-0146/94-0301 (Consolidated), also entered on April 7, 1995.

The proposed amendment was published in the Illinois Register on May 19, 1995, initiating the first notice period pursuant to Section 5-40(b) of the Illinois Administrative Procedure Act. Comments were filed by GTE North and GTE South Incorporated ("GTE").

GTE urges the Commission to link the effective date of the proposed rule to the date(s) GTE and Ameritech are relieved of their current federal antitrust consent decrees which prohibit them from providing interMSA telecommunications services. GTE maintains that it provided the only empirical factual evidence in the record regarding the benefits of 1+ presubscription. It asserts that interexchange carriers are unlikely to reduce toll rates below those already available from GTE and Ameritech and that the costs of implementation will likely exceed any expected financial benefits. This is in contrast to the very real certainty of competitive harm to GTE and Ameritech. Furthermore, any benefits which do occur will be concentrated in the small number of high usage consumers who qualify for interexchange carrier volume discounts.

GTE also argues that the rule should be modified to provide that all costs of implementing presubscription be borne by those telecommunications carriers benefitting therefrom. GTE maintains that absent interMSA relief it will only lose revenue and intraMSA

marketshare through presubscription; it should not also be compelled to pay for the costs of implementing the process through which it will lose money. It suggests that incremental presubscription costs be: 1) segregated as a separate rate element with a three year life, 2) applied only to carriers benefitting from presubscription and 3) applied in proportion to each carrier's relative share of presubscribed lines.

The Commission has reviewed the comments of GTE. They do not raise any issues or arguments which were not already carefully considered by the Commission earlier in this proceeding. It is illogical for GTE to argue that it will suffer great competitive harm, while at the same time suggesting that consumers will not benefit from presubscription. It is highly unlikely that consumers will switch intraMSA toll carriers in the absence of a meaningful financial incentive to do so. Presubscription is intended to benefit consumers by enhancing their ability to make an unimpaired marketplace-based choice of toll carrier. It is not the Commission's function to protect a telecommunications carrier's existing revenue streams by preserving artificial and unnecessary impediments to customer choice. The Commission also notes that GTE is apparently not specifically prohibited by its federal antitrust consent decree from providing interMSA services. It is merely prohibited from providing them through the corporate organizational structure it would prefer.

The Commission also concludes that the provisions in the proposed rule regarding cost recovery are appropriate. The approach permits local exchange carriers which initially bear the incremental costs of implementation to recover those costs through charges ultimately borne by the customers that benefit from presubscription. The methodology is consistent with the FCC's treatment of equal access costs and with our cost of service rule adopted in Docket 92-0211.

The Commission is not persuaded by the comments that the proposed changes to the rule are appropriate. There have been no further hearings held. The only changes in the proposed rules are in response to technical and stylistic suggestions from the Secretary of State. With the end of the statutorily-mandated first notice period, the Commission can now submit the second notice of the proposed amendment to the Joint Committee on Administrative Rules.

The Commission, having considered the entire record and being fully advised in the premises, is of the opinion and finds that:

- (1) the Commission has jurisdiction over the parties hereto and the subject matter herein;

- (2) the recitals of fact set forth in the prefatory portion of this order are supported by the record and are hereby adopted as findings of fact;
- (3) the proposed amendment to 83 Ill. Adm. Code 773, as reflected in the attached Appendix, should be submitted to the Joint Committee on Administrative Rules to begin the second notice period.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the proposed amendment to 83 Ill. Adm. Code 773, as reflected in the attached Appendix, be submitted to the Joint Committee on Administrative Rules, pursuant to Section 5-40(c) of the Illinois Administrative Procedure Act.

IT IS FURTHER ORDERED that this order is not final and is not subject to the Administrative Review Law.

By Order of the Commission this 9th day of August, 1995.

(SIGNED) DAN MILLER

Chairman

(S E A L)

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER f: TELEPHONE UTILITIES

PART 773
PRESUBSCRIPTION

Section	
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AUTHORITY: Implementing Section 13-403 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/13-403 and 10-101].

SOURCE: Adopted at ____ Ill. Reg. _____, effective _____.

Section 773.5 Applicability

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- b) This Part shall not apply to any telecommunications carrier that is subject to 83 Ill. Adm. Code 760, "Cellular Radio Exclusion."

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IXC of the customer's choice and its intraMSA presubscribed calls are carried, at the customer's choice, by the local exchange carrier (LEC) (or a primary toll carrier (PTC)), by the IXC chosen to carry interMSA calls, or by another IXC, without the use of access codes.

"Bona fide request" is a written request submitted to a LEC by an IXC, in which the IXC requests that the LEC provide presubscription consistent with this Part to customers within an exchange(s) and states that it intends to offer intraMSA usage services utilizing presubscription to customers in the exchange(s) within six months after the bona fide request, or within one year after the effective date of this Part, whichever is later.

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"Customer list" means an identification of the name, billing address and listed or published telephone number of each customer. It does not include an unpublished or unlisted telephone number.

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"Modified 1-PIC" is a presubscription method in which a customer's interMSA calls are carried by an IXC of the customer's choice and its intraMSA presubscription calls are carried, at the customer's choice, by either the LEC (or a PTC) or by the IXC chosen to carry interMSA calls, without the use of access codes.

"New local exchange carrier" or "new LEC" means a LEC that did not provide facilities-based switched local exchange telecommunications services within a specified geographic area as of December 31, 1993.

"Presubscription" is a procedure by which a customer can predesignate one or more IXCs to access for its presubscribed switched intraMSA and interMSA calls, without dialing an access code.

"Primary interexchange carrier" or "PIC" means a presubscribed IXC that carries presubscribed calls, without the use of access codes, for a customer following equal access or presubscription implementation.

"Primary toll carrier" or "PTC" means the carrier that was made responsible for intraMSA toll rates, intraMSA compensation, and coordination of the intraMSA toll network by the Sixteenth Interim Order, July 2, 1985, and the Twenty-Fifth Interim Order, July 23, 1986, in Commission Docket 83-0142.

Section 773.100 Obligation to Provide Presubscription

- a) Each LEC shall provide presubscription consistent with this Part upon the LEC's own initiative or upon a bona fide request, using the 2-PIC method.
- b) Each LEC providing presubscription within an exchange(s) using the 1-PIC method as of December 31, 1993 is exempted from the requirements of this Part as long as it continues to provide 1-PIC presubscription.
- c) Presubscription shall be provided consistent with this Part and in accordance with 47 CFR Section 64.1100 (October 1994 Edition) and the following Federal Communi-

cations Commission ("FCC") Orders: Investigation of Access and Divestiture Related Tariffs, CC Docket 83-1145, Phase I, Memorandum Opinion and Orders, 101 FCC 2d 911 (1985); 101 FCC 2d 935 (1985); and Mimeo No. 6714, released August 30, 1985; and Policies and Rules Concerning Changing Long Distance Carriers, CC Docket No. 91-64, Report and Order, 7 FCC Rcd 1038 (1992), Erratum, DA 92-101, released February 4, 1992. No other amendment or edition of the foregoing rules or Orders are incorporated in this Part.

Section 773.110 Implementation

- a) Each incumbent LEC shall, within 120 days after receiving a bona fide request, file intrastate tariffs to provide presubscription consistent with this Part in its equal access exchanges within six months after receiving the bona fide request or within one year after the effective date of this Part, whichever is later.
- b) For each incumbent LEC exchange that was not an equal access exchange as of the effective date of this Part, the incumbent LEC shall file intrastate tariffs to provide presubscription consistent with this Part effective at the time that equal access is implemented within the exchange.
- c) Each new LEC shall, within 120 days after receiving a bona fide request, file intrastate tariffs to provide presubscription consistent with this Part effective within six months after receiving the bona fide request or within one year after the effective date of this Part, whichever is later.
- d) Each LEC may negotiate implementation schedules that differ from the requirements in this Section, with the agreement of all IXCs that make bona fide requests within 60 days of the first bona fide request.

Section 773.120 IntraMSA Calls Not Subject to Presubscription

- a) In its intrastate presubscription tariff, each LEC shall specify which intraMSA switched calls are not subject to presubscription for each of its exchanges.
- b) For each incumbent LEC exchange, intraMSA calls shall not be subject to presubscription if they originate and terminate within the geographic area within which the LEC provides calling through one or more of the following: flat rate service, residence untimed calling and usage

measured service bands that do not exceed 15 miles from the exchange wire center, and/or flat rate or measured Extended Area Service, as defined in the LEC's tariffs.

- c) The following intraMSA calls shall not be subject to presubscription: local directory assistance (e.g., 411), local repair (e.g., 611), emergency (911), 0- operator services, and local pay-per-call (e.g., 976) calls. Calls using the 500, 700, 800, or 900 service access codes shall not be subject to this Part.
- d) For incumbent LECs, 0+ calls shall not be subject to presubscription if they originate and terminate within the geographic area described in Section 773.120(b).
- e) All intraMSA switched calls not subject to presubscription and dialed without the use of access codes shall be carried by the LEC. Those calls dialed using a 500, 700, 800, or 900 service access code shall not be subject to this Part.

Section 773.130 Waivers and Extensions

- a) A LEC may petition for a waiver of the requirement to provide presubscription consistent with Section 773.100 on the basis that the 2-PIC method is not technically feasible or that, under current conditions, the costs are expected to substantially exceed reasonably anticipated benefits. The Commission, after hearing, shall grant a waiver and shall allow the modified 1-PIC method to be used upon a showing that the 2-PIC method is not technically feasible or that its costs are expected to substantially exceed reasonably anticipated benefits.
- b) A LEC may petition for an extension of the timing requirements in Section 773.110 on the basis that presubscription cannot reasonably be provided within the given exchange(s) within the required time frame. The Commission, after hearing, shall grant an extension to a specified date upon a showing that presubscription cannot reasonably be provided within the given exchange(s) within the time frame required by Section 773.110 and that the date specified in the extension can reasonably be met.
- c) Any LEC or IXC may petition for a waiver of the requirements in Section 773.120 on the basis that the requirements regarding calls not subject to presubscription do not meet customers' calling needs and/or do not preserve or promote effective competition. The Commission, after

hearing, shall grant a waiver upon a showing that the requirements regarding calls not subject to presubscription do not meet customers' calling needs and/or do not preserve or promote effective competition. In determining whether to grant the waiver, the Commission shall consider the financial impact and the technical feasibility of alternatives.

Section 773.140 Customer Notification and Presubscription Changes

- a) For each incumbent LEC exchange that was an equal access exchange as of the effective date of this Part, and for each new LEC, the LEC shall provide written notice to its customers of the availability of presubscription, as follows:
 - 1) The notice shall be provided to existing customers at least 30 days prior to the implementation of presubscription consistent with this Part;
 - 2) The notice shall be provided to new customers who request network access service between the time the notice is distributed and the date presubscription is implemented consistent with this Part, at the time they request service;
 - 3) The notice shall describe presubscription, the customers' choices, how to select among the presubscription choices, and any related charges in a manner that does not attempt to influence customers regarding their selections.
- b) For each incumbent LEC exchange that was not an equal access exchange as of the effective date of this Part, balloting shall be required for both interMSA and intraMSA usage, as follows:
 - 1) Balloting shall be in accordance with the FCC's Memorandum Opinion and Orders in CC Docket No. 83-1145, Phase I, and balloting shall include both interMSA and intraMSA choices;
 - 2) Customers' intraMSA usage subject to presubscription shall not be allocated, and shall continue to be provided by the incumbent LEC (or PTC) until the customer selects a different intraMSA presubscription choice.

- c) For new customers requesting network access service after presubscription consistent with this Part is implemented in an exchange, the LEC or other carrier receiving the request shall inform the customer, when service is requested, of its presubscription choices and shall provide the following information before either asking for the customer's presubscription selections and/or marketing its own interexchange services:
- 1) The customer service representative shall inform the new customer that the customer can select from a number of IXC's for presubscribed interexchange service, and shall describe the available presubscription choices in a manner that does not attempt to influence customers regarding their selections;
 - 2) The representative shall offer to provide the names of IXC's serving that office in random order as well as the telephone numbers of the IXC's.

If the customer indicates its selections, the representative shall not solicit the customer further for the carrier's interexchange services.

- d) Customers shall retain their existing intraMSA dialing arrangements as of the effective date of this Part until they make presubscription selections, and may change their selections at any time, subject to charges specified in Section 773.160. Procedures for intraMSA and interMSA selection changes shall be in accordance with 47 CFR Section 64.1100 (October 1994 Edition) and the following Federal Communications Commission ("FCC") Orders: Investigation of Access and Divestiture Related Tariffs, CC Docket 83-1145, Phase I, Memorandum Opinion and Orders, 101 FCC 2d 911 (1985); 101 FCC 2d 935 (1985); and Mimeo No. 6714, released August 30, 1985; and Policies and Rules Concerning Changing Long Distance Carriers, CC Docket No. 91-64, Report and Order, 7 FCC Rcd 1038 (1992), Erratum, DA 92-101, released February 4, 1992. No other amendment or edition of the foregoing rules or Orders are incorporated in this Part.

Section 773.150 ~~Interexchange~~ Carrier Participation

Carriers (including LECs and IXC's) may carry presubscribed intraMSA calls if they have effective intrastate tariffs to provide such services and if they have made the necessary arrangements with the LEC.

Section 773.160 Presubscription Charges and Cost Recovery

- a) Each LEC shall allow customers to change presubscription selections once at no charge within six months following implementation within an exchange of presubscription consistent with this Part, and shall allow each new customer to select presubscription arrangements at no charge at the time network access service is initiated. At other times, each LEC may impose a reasonable, tariffed charge for changes in a customer's presubscription selections.
- b) Each LEC may seek to recover reasonable separated intrastate costs limited to initial incremental expenditures related directly to the provision of presubscription that would not be required absent the provision of presubscription consistent with this Part.
- c) In determining presubscription cost recovery, each LEC shall amortize all separated intrastate presubscription costs over at least a three year period.
- d) Each LEC that provides noncompetitive services and is not an average schedule company shall use the following procedures for recovery of intrastate presubscription costs:
 - 1) A tariffed presubscription cost recovery charge shall be applied to all switched originating intra-MSA intrastate minutes of use subject to presubscription and originated by the LEC's customers, whether carried by the LEC or another IXC. If the LEC is a PTC, such charges shall not apply to customers of other LECs with which the LEC has a PTC arrangement;
 - 2) The LEC shall submit the proposed presubscription cost recovery charge and full cost documentation as part of its tariff filing made to implement presubscription consistent with this Part;
 - 3) In non-equal access exchanges where both inter- and intraMSA equal access are implemented concurrently, LECs should develop separate inter- and intraMSA cost recovery charges, consistent with FCC requirements and this Part.
- e) Each LEC that is an average schedule company shall, through its concurrence in the Illinois Small Company Exchange Carrier Association (ISCECA) intrastate switching tariffs, use the following procedures for recovery of intrastate presubscription costs: